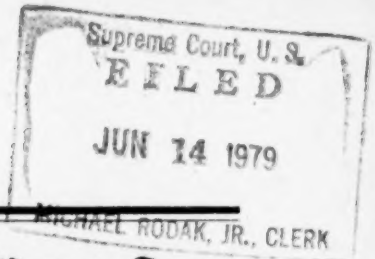


No. 78-1727



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**In the Supreme Court of the United States**

OCTOBER TERM, 1978

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FRESNO UNIFIED SCHOOL DISTRICT, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT*

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**MEMORANDUM FOR THE UNITED STATES  
IN OPPOSITION**

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WADE H. MCCREE, JR.  
*Solicitor General*  
*Department of Justice*  
*Washington, D.C. 20530*

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Petitioners seek review of a judgment reversing the district court's dismissal of the United States' complaint. The district court held (412 F. Supp. 392) that after March 24, 1974, the Attorney General lacked authority to sue a public employer, alleging a "pattern or practice" of discrimination on the basis of sex, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, without a referral from the Equal Employment Opportunity Commission. Before the case was argued on appeal the President submitted to Congress Reorganization Plan No. 1 of 1978 (Pet. App. 27-38), Section 5 of which reaffirmed the Attorney General's authority to bring Title VII "pattern or practice" suits against public employers and delegated to the Attorney General all of the EEOC's pre-suit functions with respect to state and local

governments (*id.* at 37). Accordingly, the court of appeals, applying the law "as it is now written" (*Bradley v. School Board of the City of Richmond*, 416 U.S. 696, 711 (1974)), reversed and remanded (Pet. App. 14) "for a determination of what [pre-suit] requirements are applicable to pattern or practice litigation and whether the Attorney General has met those requirements."\*

As petitioners acknowledge (Pet. 4), the issues they raise are identical to those in *North Carolina v. United States*, No. 78-1139. Petitioners here incorporate by reference (Pet. 4-6) the arguments made by the petitioners in that case. This Court denied certiorari in No. 78-1139 on May 29, 1979. There is no reason why the issues raised here call for review in light of the denial of review in No. 78-1139. (We have furnished petitioners with a copy of our brief in opposition in that case.)

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. McCREE, JR.  
*Solicitor General*

JUNE 1979

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\*The court of appeals' opinion is reported at 592 F. 2d 1088.